

DEPARTMENT OF DEVELOPMENTAL SERVICES

OFFICE OF LEGISLATION AND COMMUNICATIONS
1600 NINTH STREET, Room 322, MS 3-10
SACRAMENTO, CA 95814
TDD 654-2054 (For the Hearing Impaired)
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Department of Developmental Services Withdraws Four Living Units at Sonoma Developmental Center from Federal Certification

FOR IMMEDIATE RELEASE

**Contact: Nancy Lungren
(916) 654-1820; cell (916) 616-8265**

Sacramento, January 18, 2013 – The Department of Developmental Services (DDS) informed the Centers for Medicaid and Medicare (CMS) today that due to ongoing deficiencies at Sonoma Developmental Center (SDC) Intermediate Care Facility (ICF), the Department is voluntarily withdrawing four living units from federal certification effective immediately. The withdrawal will allow SDC to maintain certification and receive federal funding for the remaining residences. The action is in response to a federal notice in December from CMS that initiated a decertification action for this program at Sonoma.

“The well-being of our residents at Sonoma Developmental Center (SDC) is a top priority and the Department has made critical improvements in the ICF, but significant work still needs to be done,” said DDS Director Terri Delgadillo. “The Department is committed to correcting the problems on all ICF living units and will expeditiously pursue recertification of the four residences as the reforms are implemented.”

DDS has already made numerous changes in the leadership and culture at SDC to ensure clients receive the level of care that they deserve. Both the Executive Director and the Clinical Director at SDC have been removed. DDS has launched a nationwide search for a new Executive Director. Several other employees have been terminated or disciplined and investigations continue which could result in additional actions. In addition to these steps, DDS has hired additional direct care staff and has established a Corrective Action and Quality Assurance Team, consisting of state and national experts, who have been reviewing the entire SDC system to implement immediate and ongoing improvements.

The Office of Protective Services continues to undergo substantial changes as well, including the appointment of an interim commander on loan from the California Highway Patrol to help foster the necessary staff and skills for an effective law enforcement department.

DDS has engaged an external consultant who is a nationally-recognized expert and trainer in regulatory compliance for Intermediate Care Facility/Developmental Disability programs to

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conduct onsite monitoring of the changes at the facility and provide immediate feedback to DDS management, facility management and staff regarding areas of concern. Frequent unannounced onsite reviews, focused mock surveys, additional reporting requirements, and the provision of technical assistance and training are also key components of the plan of correction.

Delgadillo said DDS will continue to work with state and federal partners on long-term solutions to regain certification. "We will continue to work with families, the Legislature, staff, and their union representatives on further actions that will be taken to ensure that residents are receiving the care they deserve."

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DEPARTMENT OF DEVELOPMENTAL SERVICES

1600 NINTH STREET, Room 240, MS 2-13
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(916) 654-1897



January 17, 2013

James R. Farris, M.D.
Consortium Administrator
Centers for Medicare and Medicaid Services
Dallas Regional Office
1301 Young Street, Room 714
Dallas, TX 75202

Dear Dr. Farris:

The Sonoma Developmental Center Intermediate Care Facility-Developmental Disabilities (ICF-DD) consists of ten currently occupied residential units. They are known as: Malone, Cohen, Poppe, Stoneman, Roadruck, Bently, Corcoran, Lathrop, Bemis, and Smith. There are also four other residential units at the facility that are currently unoccupied. They are: Brent, Lux, Judah and Osbourne.

While there are deficiencies in the management, training, and staffing in the Sonoma ICF-DD units generally, the problems are more significant in Corcoran, Lathrop, Bemis and Smith. The Department of Developmental Services (DDS) is committed to fixing the problems in all of the units, but addressing the problems in these four units will take additional time. Therefore, DDS is amending the Medicaid Provider Agreement to discontinue Medicaid certification for these four units at the Sonoma Developmental Center. These units currently serve 112 of the 290 residents at Sonoma. Enclosed is an amendment to the California Medicaid Provider Agreement confirming the deletion of the four units from certification. A detailed Performance Improvement Plan (PIP) will be implemented that will apply to the residential units at the ICF-DD remaining under Medicaid certification. The four non-certified units will be required to meet all the same requirements as those covered by the PIP in order to put them in a position to regain certification at a later date. The PIP will be developed in consultation with, and subject to approval and monitoring by, the Centers for Medicare and Medicaid Services (CMS) and the California Department of Public Health (CDPH).

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The amendment to the state provider agreement and the planned correction of deficiencies is intended to promote the best interests of the residents by bringing the entire Sonoma ICF-DD into compliance with Medicaid and State requirements. As a consequence of the removal of the four residential units from the provider agreement, 178 beds within the remaining residential units will continue to be certified for federal financial participation in the operation of the ICF-DD. DDS will not seek to increase the 178 certified bed level, unless either: (a) CMS and the State Survey Agency (CDPH) approve such changes to the Medicaid provider agreement in advance; or (b) on the basis of the findings from a full revisit survey, CDPH certifies and CMS determines that the facility is in substantial compliance with applicable Medicaid certification requirements.

The decision to proceed with a Performance Improvement Plan covering the certified residential units and voluntarily removing from certification the other four units eliminates the need to proceed with the formal appeal of the December 12, 2012, notice of intent to decertify the entire Sonoma ICF-DD facility. Accordingly, enclosed is a withdrawal of the DDS' December 2012 appeal. It is further understood that should satisfactory progress not be made under the PIP and certification of any or all of the certified residential units were to be terminated, DDS would have the right to a new appeal.

We recognize and accept that the recertification of the four non-certified units may take longer than the completion of the Performance Improvement Plan for the six certified units. As to the four non-certified units, recertification will not start until CDPH and CMS are in agreement that the systemic deficiencies appear to have been corrected. A recertification request will then be processed as an application to amend the existing provider agreement to increase the number of certified beds under the provider agreement and thereby restore Medicaid coverage for the specified unit(s) provided that during the period when the subject unit(s) were not Medicaid certified, such unit(s) were not converted to an alternative use that did not include services to individuals with developmental disabilities. DDS further recognizes and accepts as a condition to restoration to the existing Medicaid provider agreement that each and every such unit will be subject to reasonable assurance requirements, including, but not limited to, demonstrating the ability to maintain compliance, as verified through onsite surveys at the beginning of 90 consecutive days.

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The Department of Developmental Services is committed to bringing the Sonoma Developmental Center ICF into full compliance with both state licensing and Medicaid Certification requirements as soon as possible.

Sincerely,



TERRI DELGADILLO, Director

Enclosures: (1) Amendment to Provider Agreement
(2) Withdrawal of the December 2012 Appeal

cc: Dr. Chapman, Director, CDPH
Thomas Hamilton, Director, Survey and Certification Group, Center for Clinical Standards and Quality, CMS
Steven D. Chickering, Associate Regional Administrator, Western Division of Survey and Certification, CMS
Diana Dooley, Secretary, Health and Humans Services
Michael Wilkening, Undersecretary, Health and Human Services
Mark Hutchinson, Chief Deputy Director, DDS
Patricia Flannery, Interim Director, Sonoma Developmental Center/Deputy Director, DDS

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9 Attorney for Director, Department of Developmental
10 Services

11
12 **BEFORE THE**
13 **DEPARTMENT OF HEALTH CARE SERVICES**
14 **OFFICE OF ADMINISTRATIVE HEARINGS AND APPEALS**
15

16 In the Matter of the Nonrenewal of
17 Medi-Cal Agreement:

OAHA Case No.: TBD

18 California Department of Developmental
19 Services – Sonoma Developmental
20 Center

**RESPONDENT'S NOTICE OF
WITHDRAWAL OF APPEAL**

21 15000 Arnold Drive
22 Glen Ellen, CA 95442

23 Hospital License Number: 150000089.

24 Respondent.

25 **TO THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH:**

26 Please take notice that respondent the California Department of Developmental Services –
27 Sonoma Developmental Center (hereinafter "SDC") hereby withdraws its appeal and request for
28 evidentiary hearing filed on December 27, 2012, pursuant to Title 22, California Code of
Regulations, section 51048.6, that appealed the California Department of Public Health's (CDPH)
December 12, 2012 letter indicating an intent to terminate the Medi-Cal provider agreement with
respect to the Sonoma Developmental Center Intermediate Care Facility.

SDC has amended its Medi-Cal provider agreement to discontinue Medicaid certification for
four of ten residential units and intends to enter into a Performance Improvement Plan (PIP) for the
remaining six units. Nothing herein is intended to waive a future appeal by SDC in response to a

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Respondent's Notice of Withdrawal of Appeal

1 proposed termination of one or more of the six certified residential units.

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4 DATED: 1/16/13

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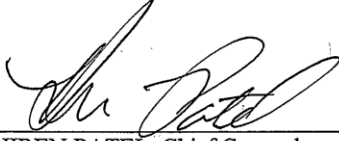
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HIREN PATEL, Chief Counsel
Attorney for Respondent, Department of
Developmental Services

Exhibit A, Attachment II

AMENDMENT TO PROVIDER AGREEMENT
Sonoma Developmental Center
Intermediate Care Facility

Notwithstanding Exhibit A, Attachment I, effective January 17, 2013

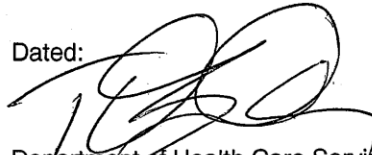
- (a) The following ICF-DD units at the Sonoma Developmental Center are withdrawn from federal provider certification and DDS will not invoice DHCS for FFP under this agreement for: Corcoran, Lathrop, Bemis and Smith; until such time as each unit is re-certified.
- (b) For the remaining ICF-DD units, FFP shall not be invoiced in excess of 178 beds, except as provided in (c).
- (c) FFP for beds within the withdrawn units may be resumed pursuant to the original provider agreement as each unit is re-certified, with a corresponding increase in the number of total ICF-DD beds eligible for FFP.

Dated:



Department of Developmental Services

Dated:



Department of Health Care Services